

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

USDC SDNY DOCUMENT ELECTRONICALLY FILED DOC #: DATE FILED: 6/5/2020

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AMTRUST NORTH AMERICA, INC., et al,

Plaintiffs,

-v-

KF&B, INC.,

Defendant.
-----X

17-cv-5340 (LJL)

ORDER

LEWIS J. LIMAN, United States District Judge:

Plaintiffs' motion for sanctions is DENIED. Defendant did not violate any Order of this Court nor did it make a misrepresentation to the Court. *See* Fed. R. Civ. P. 37(b)(2)(A). At the May 25, 2018 conference, Defendant's counsel represented he would provide to Plaintiffs the same "key" to organizing Defendant's files that defense counsel itself was using. *See* Dkt. No. 48 at 20:15-21 (May 25, 2018 transcript); *see also* Dkt. Nos. 95 at 9, 100 at 17. It later did so. *See* Dkt. Nos. 94-7, 94-8. Defendant has been transparent from the beginning of this litigation that, in its view, the underwriting file includes both the agency management system and separate emails; Plaintiffs were aware of that view. *See, e.g.*, Dkt. No. 99-11 (December 28, 2017 joint letter to the Court). The Court also declines to impose sanctions under Fed. R. Civ. P. 26(g)(3), 28 U.S.C. § 1927, or its inherent powers for the same reasons.

Plaintiffs' letter motion to seal an exhibit containing Defendant's document ("Exhibit R") is also DENIED. Plaintiffs do not believe the exhibit should be sealed or redacted, but state that Defendant had informed them that it intended to file a motion to explain to the Court its basis for sealing, and in the event Defendant did not do so, Plaintiffs will file an unsealed version.

Defendant has made no such motion.

The Clerk of Court is respectfully directed to close Dkt. Nos. 93, 96.

SO ORDERED.

Dated: June 5, 2020
New York, New York

A handwritten signature in black ink, appearing to read 'L. Liman', written over a horizontal line.

LEWIS J. LIMAN
United States District Judge